

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION**

POWER MARKETING DIRECT, INC.,	:	
	:	
Plaintiff,	:	Case No. 2:05-cv-767
	:	
v.	:	JUDGE MARBLEY
	:	
JAMES CLARK,	:	Magistrate Judge Abel
	:	
Defendant.	:	

ORDER

This matter is before the Court on Plaintiff, Power Marketing Direct, Inc.'s ("Power Marketing") Motion for Summary Judgment (Doc. 54). Defendant, James Clark, did not file a response to the Motion. In fact, Clark's counterclaims have been dismissed for want of prosecution. (Doc. 53). His attorney was granted permission to withdraw in August, 2009, and mail sent to Clark since then has been returned undeliverable. It appears as though Clark has ceased participation in this lawsuit, despite having engaged in settlement negotiations with Power Marketing.

Clark signed a License Agreement with Power Marketing on March 29, 2001. He placed orders for retail furniture with Power Marketing until April, 2005, at which point he terminated the Agreement. When the Agreement was terminated, Clark's account had an outstanding balance of \$18,557.65. The Agreement stated that if Clark did not remit payment for purchases within 24 hours, he would pay a 10% penalty of the total order on top of the order price. He therefore also owes a penalty payment of \$1,855.76, for a total of \$20,413.42.

Clark also owes interest on the unpaid amount. Ohio law mandates that interest is determined by the Ohio Tax Commissioner under O.R.C. § 5703.47. From May 1, 2005¹ until the end of 2005, the interest rate was 5%, or 0.42% per month. Clark therefore owes \$685.92 in interest for 2005, for a total of \$21,099.34. The interest rate for 2006 was 6%. The interest owed for 2006 is \$1,265.96, for a total of \$22,365.30. For 2007, the interest rate was 8%, resulting in an interest payment of \$1,789.22. The total due at the end of 2007 was \$24,154.52. In 2008, the interest rate was 8%, meaning that Clark owed \$1,932.36 in interest for that year, for a total of \$26,077.88. For 2009, the interest rate was 5%. Clark therefore owes 1,303.89 in interest for 2009, for a total of 27,381.77. The interest rate for 2010 is 4%, or \$3.00 per day, until judgment is entered. The total interest owed for 2010 is therefore \$333.00, and Clark owes Power Marketing a total of \$27,714.77.

Power Marketing's Motion for Summary Judgment is **GRANTED**, and Clark is ordered to remit payment in the amount of \$27,714.77.

IT IS SO ORDERED.

/s Algenon L. Marbley
Algenon L. Marbley
United States District Judge

Dated: April 21, 2010

¹Power Marketing contends that interest began accruing on April 22, 2005, but acquiesces to the use of May 1, 2005 as the start date for ease of calculation of interest.